

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

CATHY MOSS,

Plaintiff,

Vs.

Civil Action No. 2:17-cv-01775

(Civil Action No. 17-C-181,
Circuit Court of Kanawha County)

STATE FARM BANK, F.S.B.,

Defendant.

**NOTICE OF REMOVAL PURSUANT
TO U.S.C. §1446(a) AND (b)**

Comes now defendant, State Farm Bank, F.S.B. ("State Farm Bank"), by its counsel, Charles S. Piccirillo and K. Brian Adkins, and hereby give notice to the plaintiff in accordance with the provisions of 28 U.S.C. §1446(a) and (b) (1996), that on the 9th day of March, 2017, State Farm duly filed in the United States District Court for the Southern District of West Virginia, at Charleston, this Notice of Removal of the above-captioned action and attaches hereto as exhibits a certified copy of the docket sheet for the state court action, a true and complete copy of the circuit clerk's file, including the Summons and Complaint, and the Notice of Removal, pursuant to 28 U.S.C. §1446(d) filed in the Circuit Court of Kanawha County, West Virginia. State Farm Bank is also attaching as an exhibit State Farm Bank's Answer to plaintiff's Complaint. The attached copies constitute all process, pleadings and orders served upon and by State Farm Bank in the state court action.

The defendant, State Farm Bank, was served with process of the Complaint on February 7, 2017. The time within which State Farm Bank is required to file the Notice of Removal of this action to the United States District Court for the Southern District of West Virginia has not expired at the time of its filing and service.

As grounds for said removal, said civil action is one which may be removed to the United States District Court by the defendant herein, pursuant to the provisions of 28 U.S.C. §1441 (1991), in that the defendant who is a real party-in-interest that has been properly joined and served is not a citizen of the State of West Virginia, where the action was brought. Further, the United States District Court for the Southern District of West Virginia has jurisdiction over the above-captioned action under the provisions of 28 U.S.C. §1332 (1996), in that this is a civil action wherein the matter in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, and is between citizens of different states. The plaintiff is a resident and citizen of Kanawha County, in the State of West Virginia. Defendant State Farm Bank is, and was at all times relevant hereto, an Illinois corporation, with its principal place of business in Bloomington, Illinois. Plaintiff seeks damages for: a) alleged violations of the West Virginia Consumer Credit and Protection Act as authorized by *West Virginia Code* § 46A-5-101(1); b) costs, including attorney's fees and court costs pursuant to *West Virginia Code* § 46A-5-104; c) general damages for negligence; d) compensatory damages pursuant to *West Virginia Code* § 61-3C-16(a)(1), and punitive damages pursuant to *West Virginia Code* § 61-3C-16(a)(2), and general and punitive damages for the claims set out in Counts II, III, IV, and V of the Complaint.

While plaintiff does not set forth a specific dollar amount in her *ad damnum* or prayer for relief, defendant asserts more than Seventy-Five Thousand Dollars (\$75,000.00), exclusive of costs and interest, is in controversy given the claims for statutory damages, actual damages, general compensatory damages, punitive damages and attorney's fees under the plaintiff's various claims. Additionally, plaintiff's counsel has declined to stipulate less than Seventy-Five Thousand Dollars (\$75,000.00) is in controversy in this action, exclusive of interest and costs.

Plaintiff is further notified that pursuant to 28 U.S.C. §1446(a) and (b) (1996), the above-captioned action has now been removed to the United States District Court for the Southern District of West Virginia, and the Circuit Court of Kanawha County, West Virginia, may take no further action in this matter unless and until this action is remanded.

STATE FARM BANK, F.S.B.,

By Counsel

/s/ Charles S. Piccirillo
Charles S. Piccirillo (WVSB #2902)
K. Brian Adkins (WVSB #9621)
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Counsel for Defendant, State Farm Bank, F.S.B.

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Defendant.

CERTIFICATE OF SERVICE

I, Charles S. Piccirillo, counsel for defendant, State Farm Bank, F.S.B., do hereby certify that on this 9th day of March, 2017, I electronically filed the **“Notice Of Removal Pursuant To U.S.C. §1446(a) And (b)”** with the Clerk of the Court using the CM/ECF system, and served a copy of the same upon all parties and counsel of record by placing a true and exact copy thereof in the regular course of the United States mail, postage prepaid, addressed as follows:

Benjamin Sheridan, Esquire
Daniel K. Armstrong, Esquire
Klein & Sheridan, LC
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Counsel for Plaintiff

/s/ Charles S. Piccirillo
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